

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SEAN KIELTY,

Plaintiffs,

v.

FEDERAL EMERGENCY MANAGEMENT
AGENCY,

Defendant.

Civil Action No.: 14-cv-3269 (PGS)

ORDER

This matter is before the Court on a motion for reconsideration brought by Plaintiff, Sean Kielty (ECF No. 9). Plaintiff seeks reconsideration of a December 8, 2014 Order of Magistrate Judge Lois Goodman wherein she granted Defendant's motion for a protective order. Rather than considering this as a motion for reconsideration, the Court will view the motion as an appeal of the Magistrate's Order.

A magistrate judge may hear and determine any non-dispositive pretrial matter pending before the district court. *See* 28 U.S.C. § 636(b)(1)(A). The district court will only modify or set aside a magistrate judge's decision on these matters if it is "clearly erroneous or is contrary to law." FED. R. CIV. P. 72(a); *see also* L. Civ. R. 72(c)(1)(A) (stating that a district court judge "shall consider the appeal and/or cross-appeal and set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law."). A district court will, therefore, "review a magistrate judge's findings of fact for clear error." *Jazz Pharms., Inc. v. Roxane Labs., Inc.*, 2013 U.S. Dist. LEXIS 28374, at *3 (D.N.J. Feb. 28, 2013) (citing *Lithuanian Commerce Corp. v. Sara Lee Hosiery*, 177 F.R.D. 205, 213 (D.N.J. 1997) (internal quotations omitted); *see also Janssen Prods., L.P. v. Lupin, Ltd.*, 2013 U.S. Dist. LEXIS 85192, at *5 (D.N.J. June 18, 2013).

A finding is considered “clearly erroneous” when, “although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *United States v. United States Gypsum Co.*, 333 U.S. 364, 395, 68 S. Ct. 525, 92 L. Ed. 746 (1948). A decision is considered contrary to law if the magistrate judge has “misinterpreted or misapplied applicable law.” *Doe v. Hartford Life Acc. Ins. Co.*, 237 F.R.D. 545, 548 (D.N.J. 2006). The district court “will not reverse the magistrate judge’s determination, even in circumstances where the court might have decided the matter differently.” *Janssen Prods.*, 2013 U.S. Dist. LEXIS 85192 at *6 (citing *Bowen v. Parking Auth. of City of Camden*, 2002 U.S. Dist. LEXIS 14582, at *3 (D.N.J. July 30, 2002)). Moreover, “[a] district judge’s simple disagreement with the magistrate judge’s findings is insufficient to meet the clearly erroneous standard of review.” *Andrews v. Goodyear Tire & Rubber Co.*, 191 F.R.D. 59, 69 (D.N.J. 2000).

The Federal Circuit had stated, and decisions of this Court have affirmed, that “[d]ecisions enforcing local rules in patent cases will be affirmed unless clearly unreasonable, arbitrary, or fanciful; based on erroneous conclusions of law; clearly erroneous; or unsupported by any evidence.” *O2 Micro Int’l, Ltd.*, 467 F.3d at 1366-67 (citing *Genetech, Inc. v. Amgen, Inc.*, 289 F.3d 761, 774 (Fed. Cir. 2002); see also *Novartis Pharms., Corp. v. Wockhardt USA LLC*, 2013 U.S. Dist. LEXIS 125265, at *9 (D.N.J. Sept. 3, 2013).

This Court has reviewed Judge Goodman's December 8, 2014 Order and finds that there is no finding that it is erroneous or contrary to law. Evidently, FEMA sought to enjoin Plaintiff from utilizing documents produced that contained the Social Security numbers and addresses of FEMA employees. Since no opposition was filed by Plaintiff, and the request was reasonable, there was no clear error in Judge Goodman's decision.

IT IS on this 18th day of August, 2015;

ORDERED that Plaintiff's appeal of Judge Goodman's December 8, 2014 Order (ECF No. 9) is denied.

A handwritten signature in black ink, appearing to read "Peter G. Sheridan", is written above a horizontal line.

PETER G. SHERIDAN, U.S.D.J.